

REMARKS/ARGUMENTS

Claims 1, 2, 4-12, 14-18, 23, 24, 26-28 and 39-40 are currently pending in the application.

The Examiner has withdrawn all rejections of the pending claims and has agreed that the Amendment and Remarks made in Applicants Amendment C, filed February 23, 2007, are on point and agreed with by the Examiner. The Examiner agrees that with possible sole exception of co-assigned USPN 7,084,408 no prior art anticipates the claim language under 35 U.S.C. § 102. Moreover, the Examiner finds no motivation to combine or make obvious, under 35 U.S.C. § 103, from any reference(s) cited throughout the prosecution history to arrive at Applicant's claim language. Further, no 35 U.S.C. § 101 issues are present. In conclusion, Applicant's claims are deemed to fully meet USPTO patentability requirements.

Double Patenting:

Claims 1, 2, 4-12, 14-18, 23, 24, 26-28 and 39-40 are held unpatentable over claims of USPN 7,084,408 on grounds of non-statutory obviousness-type double patenting. Although the applicants do not agree with this characterization of the pending claims, this rejection is made moot by the attached terminal disclaimer.

Conclusion:

In view of the foregoing amendments and remarks, it is respectfully submitted that the claimed invention as presently presented is patentable over the art of record and that this case is now in condition for allowance.

1. In particular, please note that the pertinent references of interest were cited in the form PTO-892's provided during prosecution. With the possible exception of USPN 7,084,408 (which is commonly assigned with the present application), none of the other references anticipate the Applicants claim language under 35 U.S.C. § 102, nor provide a proper basis for an obviousness rejection under 35 U.S.C. § 103. Further, no 35 U.S.C. § 101 issues are present. In conclusion, Applicant's claims are deemed to fully meet USPTO patentability requirements.

2. Applicant's Terminal Disclaimer submitted herein, obviates any potential double patenting rejection regarding United States Patent No. 7,084,408.

Accordingly, the applicants request withdrawal of all pending rejections and request reconsideration of the pending application and prompt passage to issuance. As an aside, the applicants clarify that any lack of response to any of the issues raised by the Examiner is not an admission by the applicant as to the accuracy of the Examiner's assertions with respect to such issues. Accordingly, applicant's specifically reserve the right to respond to such issues at a later time during the prosecution of the present application, should such a need arise.

As always, the Examiner is cordially invited to telephone the applicants representative to discuss any matters pertaining to this case. Should the Examiner wish to contact the undersigned for any reason, the telephone numbers set out below can be used.

Additionally, if any additional fees are due in connection with the filing of this Amendment, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 50-0388 (Order No. LSI1P212).

Respectfully submitted,
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